

## PATENT

REMARKS

Claims 2, 3, 5-7 and 9 are currently pending in this application. Claims 8, 10-24 and 26 have been withdrawn from consideration without prejudice in response to a restriction requirement. Reconsideration is respectfully requested in light of the following remarks.

Claims 2, 3 and 6 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,675,045 to Mass et al. Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Mass et al. in view of U.S. Patent Number 6,379,300 to Haubrich. Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Mass et al. in view of U.S. Patent Number 6,312,378 to Bardy. Applicants respectfully traverse these rejections.

Applicants submit that the Examiner previously asserted Mass et al. (i.e. U.S. Publication No. 2002/0095195 which matured into U.S. Patent 6,379,300) as a prior art reference against the present invention in an earlier office action dated, December 17, 2003. Applicants then submitted declarations of the inventors of the subject matter recited in the present application swearing behind Mass et al. in a response filed on April 19, 2004. The Examiner indicated in an office action dated July 27, 2004, that the declarations were sufficient to overcome the Mass et al. reference.

Accordingly, Applicants respectfully submit that the Mass et al. reference does not qualify as prior art under 35 U.S.C. §102(e) or 35 U.S.C. §103(a). Therefore, it is respectfully submitted that the rejections based on the Mass et al. reference are moot.

In light of the above remarks, it is respectfully submitted that the application is in condition for allowance and an early notice of allowance is requested.

Respectfully submitted,

*5-1-20*

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Date

  
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